

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**IN RE:**  
**SURE ELECTRIC, LLC,**  
  
**3 Riverway, Suite 1900**  
**Houston, Texas 77056**  
**Tax ID Number: 20-5978114**

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**CASE NO. 08-33664-H4-11**  
**(CHAPTER 11)**

**DEBTOR**

**DEBTOR'S EMERGENCY MOTION TO DISMISS WITHOUT PREJUDICE**

**Pursuant to Local Rule 9013:**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 20 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE**

**COMES NOW Sure Electric, LLC d/b/a Riverway Power (hereinafter collectively referred to as "Debtor") and files its Motion to Dismiss ("Motion") and would show this Court the following:**

**Jurisdiction**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334.

Venue is proper pursuant to 28 U.S. §§1408 and 1409. This is a core proceeding within the meaning of 28 U.S.C. §§157(b)(2)(A).

2. The statutory predicates for relief requested herein are sections 105 and 1112(b) of the Bankruptcy Code.

### **Background**

3. On June 3, 2008 (the "Petition Date"), the Debtor commenced its case under Chapter 11 of title 11 of the United States Code (the "Bankruptcy"). The Debtor continues to operate its business and manage its properties as debtor in possession pursuant to section 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed.

4. The Debtor is a Retail Electric Provider (REP) with approximately 6,500 contracts to provide electrical utility services to retail customers. "Retail customers" as defined by §31.002(16) of the Public Utilities Regulatory Act are the separately metered end-use customer who purchases and ultimately consumes electricity.

5. Since May 12, 2008, the Debtor has purchased electric energy from Fulcrum Power Marketing, L.L.C. ("Fulcrum") which is a power marketer and "QSE" or qualified scheduling entity.<sup>1</sup> Additionally, the Debtor on occasion has been required to buy power directly from Electric Reliability Council of Texas ("ERCOT").

### **Authority to Dismiss**

6. 11 U.S.C. §1112(b) provides, in part

- (1) Except as provided in paragraph (2) of this subsection (c) subsection of this section, and section 1104(a)(3), on request of a party in interest and after notice and a hearing, absent

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<sup>1</sup> The Debtor is also a QSE.

unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

7. The Debtor requests that this Bankruptcy case be dismissed because the Debtor, after conferring with various creditors regarding use of cash collateral and security deposits required by ERCOT postpetition, has determined that it is not feasible to reorganize.

8. Counsel for the Debtor conferred with counsel for ERCOT and counsel for the PUC to determine whether they preferred dismissal or conversion in order to effectuate an orderly transition of the Debtor's retail customers.

9. ERCOT's and the PUC's viewpoint is that dismissal would be preferable from its standpoint because it will afford them the opportunity to more easily transition all of the Debtor's customers to other providers of power, referred to in the industry as the providers of last resort. Dismissing the case will insure that the Debtor's customers will not go without power. If the case were converted to chapter 7, it would be difficult if not impossible for a chapter 7 trustee to operate the Debtor's business for several days until such time that ERCOT could effectuate a mass transition of the Debtor's customers. Additionally, a chapter 7 trustee would be faced with numerous contract rejection issues.

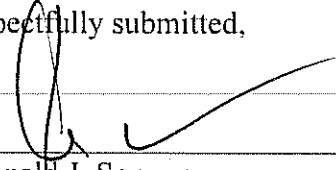
10. Additionally, the Debtor is requesting that the court consider this motion on an expedited basis at the hearing scheduled for June 10, 2008 at 8:15 a.m. so that ERCOT can begin its mass transition of the Debtor's customers.

11. Accordingly, the Debtors assert that dismissal is in the best interest of the estate and

its creditors and customers.

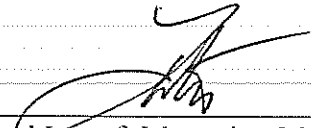
WHEREFORE, the Debtor respectfully requests that this Court enter the proposed Order dismissing the bankruptcy case without prejudice and for such other and further relief to which the Debtor may be entitled, either at law or in equity.

Respectfully submitted,

By:   
Ronald J. Sommers  
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PROPOSED ATTORNEYS FOR DEBTOR

OF COUNSEL:

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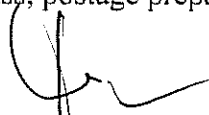
By:   
Zahed Lateef, Managing Member of  
Riverway Power Partners, LLC, Sole Member of  
Sure Electric, LLC  
DEBTOR

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**CERTIFICATE OF SERVICE**

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This is to certify that a true and correct copy of the foregoing has been served on the parties on the attached service list by U.S. mail, first class, postage prepaid or by ECF on June 9, 2008.



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Ronald J. Sommers  
2800 Post Oak Blvd., 61<sup>st</sup> floor  
Houston, TX 77056

## Service List

### Debtor

Sure Electric, LLC, *Debtor*  
3 Riverway, Suite 1900  
Houston, TX 77056

### U.S. Trustee

Office of the US Trustee  
515 Rusk Ave, Ste 3516  
Houston, TX 77002

### Creditors

AEP-C  
400 W. 15<sup>th</sup> Street  
Austin, TX 78701

Amvensys Technologies  
#12 4<sup>th</sup> Main, Vasanthnager  
Banglore AP  
India 560052

Coral Power, LLC  
909 Fannin, Suite 700  
Houston, TX 77010

epSolutions  
317 FM 620 South, Suite 205  
Austin, TX 78734

Internal Revenue Service  
P.O. Box 21126  
Philadelphia, PA 19114

OSG Billing Services, Inc.  
100 West Forest Ave., Suite G  
Englewood, NJ 07631-4033

Sharyland  
4403 W. Military Hwy, Suite 700  
McAllen, TX 78503

TNMP  
4100 International Plaza  
Fort Worth, TX 76109

AEP-N  
400 W. 15<sup>th</sup> Street  
Austin, TX 78701

Centerpoint Energy  
P.O. Box 4567  
Houston, TX 77210-4567

Electric Reliability Council of Texas  
7620 Metro Center Drive  
Austin, TX 78744-1654

Fulcrum Power Marketing, LLC  
5120 Woodway, Suite 10010  
Houston, TX 77056

Oncor  
1601 Bryant Street  
Dallas, TX 75201

QSE Services, Inc.  
1305 Indian Creek Drive  
Brownwood, TX 76801-6731

Texas Comptroller of Public Accounts  
Austin, TX 78774

Transunion  
P.O. Box 99506  
Chicago, IL 60693-9506

**Parties Requesting Notice**

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